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Chairman: Mr. Jiří NOSEK (Czechoslovakia).

AGENDA ITEM 28

Freedom of information: report of the Economic and Social Council (A/2705, A/2686, chapter V, section VI, A/C.3/L.447, A/C.3/L.448, A/C.3/L.449) (*continued*)

GENERAL DEBATE (*continued*)

1. Mr. KUEHN (France) recalled that, traditionally, France took a great interest in the question of freedom of information. In the Economic and Social Council, the French delegation had striven towards the achievement of constructive measures that were of an indisputable technical value and took account of realities. To that end it had taken up most of the practical proposals made in the report prepared by Mr. López (E/2426 and Add.1 to 5)¹, to whom Mr. Kuehn wished to pay a tribute for the care and objectivity with which he had done his work. Mr. Kuehn would deal in turn with each of the resolutions adopted by the Council on the basis of the Rapporteur's recommendations (resolution 522 (XVII)).

2. In resolution 522 A (XVII) the Secretary-General was asked to make five different studies. The first related to a concrete programme of action to promote among news personnel a wider knowledge of the work of the United Nations. As a first step in providing basic information, arrangements should be made for the dissemination of news of a general character through the existing Press agencies. The establishment of a United Nations Press office or agency did not seem desirable; the setting-up of a Headquarters liaison body composed of representatives of the various agencies was the most that could be considered. In the second place, news of a special character should be communicated direct to any newspapers which could use it. Thirdly, there should be meetings of journalists and also fellowships, internships and training courses. Lastly, the United Nations and the specialized agencies should co-operate closely with news agencies in the various countries. The Council had mentioned that news personnel should be given a wider knowledge of

foreign countries and of international affairs. That, however, came more within the scope of the Press agencies, and the United Nations should undertake the task only in the case of countries where there were no independent national agencies.

3. The second study concerned a world-wide survey of current principles and practices involved in the censorship of outgoing news dispatches. That was a delicate subject and did not for the time being seem to be open to effective international action. In France, the only form of law governing that subject in peacetime was the International Telecommunication Convention. At the Plenipotentiary Conference held at Buenos Aires in 1952, the French delegation had expressed regret at the contradiction between articles 29 and 30 of that convention and the relevant passages in the United Nations draft conventions on freedom of information. Under ordinary circumstances, the French Government had never in practice had recourse to the rights available to it under the above-mentioned articles 29 and 30. Outgoing news dispatches to foreign countries were never censored.

4. The third study was concerned with the legal aspects of the rights and responsibilities of the media of information; general principles were already laid down in article 19 of the Universal Declaration of Human Rights.

5. The fourth study concerned what was sometimes erroneously called the "professional secrecy" of journalists; it would be better to speak of a possible exemption from having to give evidence in a court of law in certain circumstances. Article 378 of the French Penal Code did not list journalists among those required to exercise professional secrecy; information personnel were accordingly covered by the provisions of ordinary law, in particular articles 80 and 315 of the Code of Criminal Procedure. Journalists had been sentenced in 1882, 1885 and 1923 for refusing to testify; since that time it had become the rule that journalists giving evidence should not be subjected to harassment. The professional organizations of news personnel in France were all asking that their members should have the right to protect their sources of information and, in the codes of conduct they were drafting, were making it obligatory for journalists to exercise discretion concerning matters on which they received confidential information. The last Congress of the International Federation of Journalists, which had been held at Bordeaux in May 1954, had confirmed that position. The question was currently under study by competent official agencies.

6. The fifth of the contemplated studies concerned monopolies and, in all probability, tendencies for economic and financial concentration. There were no public or private Press or cinema monopolies in France. In order to counter tendencies towards concentration,

¹ Official Records of the Economic and Social Council, Sixteenth Session, Supplements Nos. 12 and 12A.

which were already condemned in general terms in article 419 of the Penal Code, article 9 of the Ordinance of 26 August 1944 prohibited the publication of more than one daily newspaper by the same undertaking. The Press Bill submitted to Parliament in 1947 had gone even further in that direction. In addition provisions had been made to prevent commercial advertising from exercising an excessive influence on the Press. The Havas Agency, for example, had been obliged to split up into two separate branches, one of which had become the *Agence France-Presse*. Article 2 of the Ordinance of 2 November 1945 prohibited all commercial advertising operations by Press agencies. Lastly, the Act of 2 April 1947 had given parcel-delivery undertakings a special status, thus abolishing a *de facto* monopoly. Radio and television broadcasting were in a different position: both were a monopoly of the State, which had set up a special administration enjoying a certain measure of independence. However, the basic enactments, namely the Decree of 27 December 1851 and the Act of 30 June 1923, did not rule out the grant of licences to private undertakings, but any such grant required the passing of an Act. Legislation to strengthen the independence of radio and television was currently being drafted.

7. Resolutions 522 B and C (XVII) called for no comment.

8. In resolution 522 D (XVII), concerning copyright, operative paragraph 1 fully met the French Government's wishes. The field covered by paragraphs 2 and 3 was one in which exchanges of information were hampered by the lack of international regulations. The International Labour Organisation was studying means of protecting performers' rights, in connexion with which the co-operation of the United Nations Educational, Scientific and Cultural Organization would certainly prove very valuable. The protection of news had been a subject of concern at several international conferences since 1927, but no positive results had been achieved. The conclusion of a convention on the subject would enable Press agencies to enjoy greater economic stability and would thus help to improve the quality of information in general.

9. Resolution 522 E (XVII) closely corresponded to the views of the French delegation, though the latter would have liked UNESCO to be associated in the task the ILO was invited to perform.

10. Resolutions 522 F, G, H and I (XVII), despite their importance, appeared explicit enough to need no comment.

11. With regard to resolution 522 J (XVII), France had always favoured the grant of technical assistance to countries lacking adequate independent domestic information media, which were frequently essential to economic and social development. But information technique should not be confused with respect for fundamental freedoms, a matter which lay almost completely outside the scope of international technical assistance programmes. Moreover, the United Nations was not entitled to force the hand of recipient Governments or of the organs responsible for administering the programmes.

12. With regard to resolution 522 K (XVII) it should be noted that there was no formula for assistance in the development of domestic information enterprises which would apply in all cases; Governments had to make

their own applications for assistance in accordance with their over-all economic, social and cultural development plans. It was essential, furthermore, not to spread the limited resources of the Special Reserve Fund over an excessive number of individual projects.

13. Resolution 522 L (XVII) presented no special difficulty; the newsprint question would in future be essentially within the competence of the Food and Agriculture Organization of the United Nations.

14. The Council had taken no decision with regard to war propaganda or false or distorted information. The French delegation had suggested that the 1936 International Convention concerning the Use of Broadcasting in the Cause of Peace² should be revived although that instrument had been found largely ineffective in practice. The Soviet Union had reiterated that suggestion, on which the Council had taken no action, and had submitted a draft resolution (A/C.3/L.447) on the subject. The French delegation supported that text, but at the same time urged the need to adapt the text of the Convention to existing circumstances, and for that reason supported the proposal to entrust that study to the Economic and Social Council.

15. The greater part of the remaining work in connexion with freedom of information would fall to the specialized agencies. The Rapporteur appointed by the Economic and Social Council had made a useful contribution, and the United Nations had made as much progress as could reasonably have been expected. Those who were disappointed with the results achieved had not, perhaps, taken existing conditions sufficiently into account. The French delegation, which had always played an active part in United Nations work in that field, felt it was a mistake to dream of grandiose legal systems at the current stage; it was better to concentrate on moderate, sensible and practical solutions. The approach adopted seemed a reasonable one: while the ultimate aims should not be renounced, the immediate need was to contrive to remove existing obstacles; that course would better serve the cause of international co-operation at the current time.

16. He reserved the right to speak at a later stage on such draft resolutions as might be proposed. Meanwhile, his delegation took a favourable view of the proposals made by the USSR (A/C.3/L.447) and the six Powers (A/C.3/L.448), subject to the reservations expressed in the course of his statement.

17. Mr. DE BARROS (Brazil) pointed out that the freedom with which the Third Committee was dealing was among those which were of most pressing importance, most in the public eye and most threatened in the modern world. That freedom was an important branch of the tree of human liberty, and should be protected if the tree itself was to be preserved. The risks run by those who had struggled to establish respect for essential human rights in the days of the *encyclopédistes* had multiplied as technical progress had increased the possibilities for the dissemination of ideas. Material media, however, were not of paramount importance. Books, as Voltaire had pointed out, had never overthrown a religion, an empire or a civilization; and all Hitler's power had not saved him from defeat. The real power of thought lay in the

² See League of Nations Treaty Series, vol. CLXXXVI, p. 3011.

truth it revealed and the light it shed. There was therefore no need to quail before the vast resources of modern technology which freedom of information would place in the service of truth. It mattered little what terms were used to describe the concept underlying the draft convention on freedom of information; and if the application of that instrument troubled the world's political conscience, public opinion had ways and means of separating truth from falsehood. The United Nations should strive above all to protect freedom against tyranny in any form; while the exercise of that freedom had to be subordinated to respect for the legal principle of responsibility, that principle could entail no more than a restriction—it could never result in slavery.

18. Freedom of information should be regarded from two points of view; the national and the international. On the national plane, it varied with the political doctrine and the structure of the State and was reflected in domestic legislation. Some Governments showed the greatest liberalism, while others imposed completely arbitrary restrictions ranging from direct censorship to the control of sources of information and media for the publication and transmission of news. The specific advantage of international regulation, which was still in its infancy, would be to make it possible to control the actions of despotic Governments and to condemn the practices rejected by the draft convention on freedom of information. That was why the Latin American countries were so interested in that convention and wished to see it approved and ratified. Political passions frequently endangered the fundamental freedoms and the freedoms deriving from them: freedom of thought, which tyrants throughout history had vainly sought to suppress; freedom to communicate thought, to proclaim convictions, to profess a faith, to disseminate doctrines, to print, and to publish. To preserve those freedoms the modern world had powerful weapons, greatly feared by those who shrank from criticism and pleaded reasons of State—the need to preserve law and order and to ensure social tranquillity—to justify the restrictions on freedom which they imposed.

19. Some restrictions were clearly indispensable, and indeed were envisaged in article 2 of the draft convention.³ They had been criticized at previous sessions of the General Assembly, but the Brazilian delegation held that they were inevitable and reasonable, and that the exercise of a right always carried with it certain duties and obligations. The essential consideration was that the right itself should be recognized and established.

20. On the battleground of freedom of information Eastern and Western concepts were drawn up against each other. Under the Eastern system, the State controlled the dissemination media—books, the Press, telegraphy, the radio, the cinema and television—and imposed its own doctrine; in contrast, the Western system was based on the principle of individualism, and the action of the State was the outcome of the free expression of the collective will. Some considered that there were disadvantages and dangers in that system, and painted a somewhat sombre picture of a troubled world in which information enterprises would play upon unhealthy tendencies, thereby lowering the level of civilization and culture. Some rather un-

pleasant aspects of mankind obviously did find expression in the Press, the radio and television, but reliance should be placed on the only permissible censorship, that of the public, which knew by instinct where the truth lay. He could not accept the solution which some advanced, namely that freedom should be suppressed outright; modern history, without going further into the past, showed only too clearly the dangers that suppression involved. Ten years previously, when he had been the Secretary of the Brazilian delegation at San Francisco, he had had occasion to point out in a radio broadcast that the younger generation, with its eyes ever on the future, disregarded the experience of its predecessors. That simple observation had struck a responsive chord in the mind of the great writer Bernanos, who had referred to it in his book *Le chemin de la Croix-des-Ames*.

21. In his opinion, the only possible solution was freedom, which had promoted both the material and spiritual development of peoples since the earliest times. That had been said in reference to England; Paul Valéry had made the same remark with reference to the Rhenish cities and the Mediterranean civilization; and that was undoubtedly the explanation of the rise of certain modern States, particularly the United States of America. That some countries were uneasy about the resources at the command of the United States, especially in the field of information, had been realized during the debates on the draft convention. The differences of opinion which had come to light in 1948 had prevented the Third Committee from reaching agreement on the draft convention. Brazil found that particularly regrettable, since it was among those who were convinced that the proposed international instrument would be of value in eliminating all kinds of abuses, particularly the misreporting of news by enterprises which monopolized the transmission of news.

22. Steps should be taken to improve information services in the under-developed countries and to assure them of access to information sources; at the same time, the under-developed countries and countries which were in a disadvantageous position on the news market should be able to defend themselves against foreign agencies and should be given facilities for correcting errors, and abuses should be eliminated.

23. Being both a journalist and a diplomat, he had had opportunities to study the problem from the outside, from the international point of view. Internationally, countries such as Brazil could only rely on the integrity and good faith of the heads and representatives of news enterprises. In that context, the international code of ethics which was being prepared by professional Press and radio associations would be more effective than the restrictions placed by article 2 of the draft convention on the freedoms set forth in article 1. The code was already tacitly observed by all respectable members of the profession. It also formed part of the domestic legislation of those States which had enacted legislation relating to the Press. The Brazilian delegation would therefore find no difficulty in supporting the two articles. As Mr. López had pointed out in his report, however, it had not yet been decided whether the final form of article 2 should be a general formula or a detailed enumeration. As he (Mr. de Barros) had said in connexion with the draft covenants on human rights (E/2573, annex I), the disadvantage of an enumeration was that it could never be complete on account of the great

³ See *Official Records of the General Assembly, Seventh Session, Annexes*, agenda item 29, A/AC.42/7 and Corr.1, annex.

variety of political and legal systems, and the Brazilian delegation would therefore prefer a general formula of the kind suggested by Mr. López (E/2426 chapter VI, draft resolution I) and based on the article on freedom of information in the draft covenant on civil and political rights (E/2573, annex I).

24. The Brazilian delegation supported the idea set forth in draft resolution No. 1 in Mr. López's report, that article 2 should be reviewed five years after the convention had entered into force and also that there should be a declaration on freedom of information on the lines of the Universal Declaration of Human Rights; if there was any further delay in preparing the convention, his delegation would draft a proposal to that effect.

25. With regard to the complex problem of propaganda for war and dissemination of false and distorted information likely to disturb friendly relations among nations, he said that perhaps those reprehensible practices might be liable to severe disciplinary action under the code of ethics with the consequence that it would be unnecessary to adopt new specific rules to that effect.

26. It was well known that the 1936 International Convention concerning the Use of Broadcasting in the Cause of Peace had not aroused much interest. The various subtle practices of censorship and of suppression and coercion often adopted in the countries of Europe, Asia and America were improper and should not be encouraged on the specious pretext of preservation of law and order.

27. The economic independence of information personnel raised extremely serious questions which could only be solved by the labour legislation of each particular country. In Brazil the rights of newspapermen were protected by very progressive legislation. In connexion with resolution 522 F (XVII) of the Economic and Social Council, he stated that courses for the professional training of newspapermen already existed in Brazil.

28. The questions of the production and distribution of newsprint were of very great importance; as the cost of paper might become a serious obstacle to the development of the Press he hoped that effective steps would be taken to remedy the situation.

29. It was to be hoped that the Committee would be able to resolve the serious difficulties pointed out by Mr. López so that the cause of freedom might triumph.

Mr. Núñez (Costa Rica) took the Chair.

30. Mrs. CISELET (Belgium) renewed the tribute which her delegation had paid to Mr. López in the Economic and Social Council; he had fulfilled his task impartially. From his report (E/2426 and Add.1 to 5) the disturbing conclusion could be drawn that freedom of information was far from being respected in all countries. The Committee should face the fact and try to remedy the situation.

31. It was unlikely, in a true democracy, that freedom of information could harm law and order. An enlightened public opinion was able to distinguish the reliable newspapers, and a good government had no more need of censorship than of bayonets. If the government was bad, it was in the general interest that it should be overthrown. In Belgium, freedom of information was complete and guaranteed by the Constitution, and no government, either of the right or of the left, had ever found

it necessary to derogate from it. Neither monopolies nor censorship existed and correspondents, both Belgian and foreign, had complete freedom of movement and were subject to no restrictions as regards either outgoing or domestic dispatches. There were newspapers of every shade of opinion, from the most conservative to the most revolutionary, and the sale of foreign newspapers was unrestricted. Newspapermen were subject to the criminal law in the same way as other citizens, but enjoyed special guarantees. Cases concerning the Press, which, incidentally, very rarely occurred, were referred to the assize courts. Accordingly, public opinion was always the final judge. Moreover, private persons could always exercise the right of reply and newspapers were bound to publish their corrections.

32. Some delegations had quoted figures to show the numbers of books and newspapers published in their countries. However useful those publications might be in satisfying the public's need for knowledge, the figures did not prove that there existed true freedom of information, which was scarcely conceivable without an opposition Press and literature. Freedom of information could not be dissociated from freedom of thought. The former was the condition of the latter and, in all spheres, freedom implied the possibility of choice.

33. Referring to the decisions of the Economic and Social Council (resolution 522 (XVII)) and Mr. López's recommendations (E/2426, chapter VI), she spoke first on the points on which her delegation did not share the Rapporteur's views. It had not favoured the continuation of the office of Rapporteur, nor had it considered the time ripe for the drafting of a convention or even a declaration. In a general way it approved the recommendations of the Economic and Social Council. Resolution 522 J II (XVII), which had been submitted to the General Assembly for approval, would be supported by Belgium, which realized the difficulties of some countries that were still short of material and technical means and were therefore at a disadvantage in the field of information. The Belgian delegation would therefore vote in favour of the joint draft resolution (A/C.3/L.448). It would also vote for the draft resolution submitted by the USSR (A/C.3/L.447). Belgium had been a party to the 1936 Convention concerning the Use of Broadcasting in the Cause of Peace, which, as events had shown, had unfortunately not proved very useful: however, the Belgian delegation had no objection to the principle underlying that instrument, the text of which would, of course, have to be amended in the light of existing circumstances.

34. Mrs. PRIETO (Cuba), commenting on the paragraph concerning her country in Mr. López's supplementary report (E/2426/Add.1, p. 8), said the paragraph was correct up to the penultimate sentence, although the reason for the strict measures had not been an attempted uprising by the army. On the other hand, the last sentence might be misleading. It was clearly intended to mean that no censorship over outgoing dispatches by foreign correspondents had been applied even during the ninety days referred to, but the use of the present tense might leave a doubt as to the current position of freedom of information in Cuba. She could give the assurance that there was no internal censorship and no censorship of outgoing dispatches in Cuba.

35. Mr. PAZHWAQ (Afghanistan) said he had given notice at the 600th meeting that his delegation intended

to propose, jointly with any other delegations willing to do so, a draft resolution on certain matters connected with freedom of information. Judging by his subsequent contacts with several delegations he thought it likely that a joint draft resolution would be proposed.

36. For the time being he would draw attention to the subject of the separate draft resolution (A/C.3/L.449) proposed by his delegation. The subject had been fully discussed in 1952, also at the initiative of his delegation, but no decision had been taken. The draft resolution, which set forth a right which was recognized and sanctioned in many United Nations documents, was simple and scarcely required explanation. It was different in form from the previous draft relating to the same subject. It was addressed to the Economic and Social Council and made no mention of an article for possible incorporation in the convention, since the Afghan delegation wished first of all to hear the opinions of other members of the Committee.

37. He offered some critical comments on the Rapporteur's supplementary report (E/2426/Add.1) as he had told Mr. López he would.

38. It was a pity that Mr. López had referred in a single sentence of paragraph 11 to three countries whose observations had dealt with different subjects. His own (Mr. Pazhwak's) observations had had nothing to do with internal censorship or with outgoing news dispatches. Moreover, when he had invited Mr. López to verify certain information, he had meant that he should apply to other sources and not that he should ask the same agencies for a mere reaffirmation. Finally, the incorrect statements relating to Afghanistan in the supplementary report were the more regrettable because the Rapporteur laid stress on his fairness without even mentioning that it was at the Afghan representative's invitation that he had undertaken further verifications.

39. The allegation on page 4 of the report (E/2426/Add.1)—the very allegation that he had invited Mr. López to verify—that no newspapers or magazines could be published or distributed without Government approval, was absolutely false. The legislation relating to the Press, which had been translated into various

languages and could be referred to by anybody, stipulated that any person wishing to publish a newspaper or magazine had to be registered officially; having complied with that formality, that person was perfectly at liberty to publish without further Government interference.

40. Not only could foreign correspondents enter Afghanistan but they were encouraged to do so and all possible measures were taken to assist them in their work and even to secure their comfort.

41. With reference to the paragraph concerning Afghanistan on page 7 of the same report, it was true that there were some magazines published by the Government. The Ministers of Health, Education and National Economy each published such a magazine and the Press Department published a periodical entitled *Afghanistan* in English and French. The Government did not, however, publish any newspaper, and all the other magazines appearing in the country were entirely independent of the Government. The beginning of the last sentence of the same paragraph was incorrect because, as had just been pointed out, foreign correspondents had always been freely admitted to Afghanistan. The end of that sentence was perfectly correct; it was surely perfectly reasonable to require a newspaperman to have professional integrity, so it was hard to see why the phrase in question had been put in inverted commas.

42. Mr. LOPEZ (Philippines) thanked the Cuban and Afghan representatives for their courtesy in giving him advance notice of the criticisms they proposed to make on his supplementary report (E/2426/Add.1) and of corrections thereto. In his capacity as Rapporteur, he had always been careful in such cases to bring any observations or corrections submitted in writing by Governments to the notice of all Member States. As his term of office had expired, he was no longer in a position to do so, but the statements that had just been made would appear in the summary records and he hoped that that would be sufficient, in view of the fact that it was not possible to correct the report.

The meeting rose at 5.30 p.m.